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Approved For Release 2003/02/27 : CIA-RDP62-00631R000400130015-9

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Approved For Release 2003/02/27 : CIA-RDP62-00631R000400130015-9

OCC/B-8002

Office Memorandum • UNITED STATES GOVERNMENT

TO : MEMORANDUM FOR THE RECORD

DATE: 7 November 1957

FROM : John S. Warner

SUBJECT: Standard for Assessing Individual Pecuniary Liability for Motor
Vehicle Accidents

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Advised [] that this problem had been considered before and that [] had several discussions with the Department of Justice. We arrived then at the conclusion that simple negligence was not enough to establish pecuniary responsibility and the standard should be wilfulness or gross negligence.

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25 October 1955

MEMORANDUM FOR : Office of Logistics
ATTENTION : Chief, Transportation Division
SUBJECT : Recommended Handling of Administrative Aspects of Traffic Cases

1. For some time past, this Office has been conducting a great deal of correspondence with outsiders with regard to claims for or against the Government on account of damage caused to various types of vehicles in traffic accidents involving Agency vehicles. Such correspondence has included letters to outsiders sending them standard government forms which must be executed in order to make claim against the Government and requesting repair estimates; letters informing outsiders as to the status of their claims; letters to insurers requesting payments and follow up correspondence of one type or another. Necessarily ancillary to this correspondence have been a great many intra-agency phone calls requesting information sought by outsiders, supplying information to the components dealing with one or another phase of the processing of traffic accident files, etc. Finally there have been numerous telephone conversations with the outsiders themselves, their attorneys or their insurers.

2. None of this purely routine, administrative work involves any legal issues or technique. Much of the information necessary to its accomplishment is not available in this Office, but must be obtained from other components, chiefly the Office of Logistics. The only matters of a legal nature involved are those of (a) the determination of legal liability as between the parties to an accident, and (b) the mechanics of transferring a file to the General Accounting Office for collection on behalf of the United States in those instances in which such determination has been made against the outsider and he has refused to pay.

3. In view of the above, we suggest that a system be adopted under which this Office would continue to handle the legal aspects of each case, as described above, and the office having the primary interest in, and supervision over, Agency vehicles would handle the correspondence, written and oral, incident to traffic accidents involving them.

4. We suggest that certain aspects of this system could be these. Drivers can be furnished with the standard forms for submitting claims against the government. On the occasion of an accident, the Agency driver involved can give the proper number of forms to the other driver with the instructions that, if claim against the Government is contemplated, the forms should be filled out and returned to the Agency along with at least two itemized repair estimates. The return address given should be in the Transportation Division. Thereafter correspondence concerning any claim, the Government's or the outsider's, should be conducted by that division. The vehicles are under its supervision and constitute its responsibility. The drivers are assigned to that division. Investigation of the accident is made by it. The Board of Survey action, if any, takes place within the Logistics Office which comprises, inter alia, the Transportation Division.

5. As before, this Office will be glad to pass on the purely legal aspects of each case as well as to lend whatever advice may be sought in the initial stages of establishing any new procedures for the handling of traffic cases.


Office of General Counsel

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7 December 1954

Chief of Logistics

Assistant General Counsel

Liability and Damage as regards Motor Vehicles

1. This will acknowledge receipt of your memorandum of November 23, 1954 requesting our opinion on the specific question of liability and damage as between an individual of this Agency and third parties, and as between the Agency and the individual within the context of the following two policy questions:

"a. What should Agency policy be regarding liability and damages resulting from an accident to a personally owned vehicle which had been authorized for and was being utilized on official business?

b. What should Agency policy be regarding liability and damages resulting from an accident to a quasi-personal vehicle which was being utilized for personal use when such use was for the purpose of maintaining cover by making the vehicle appear to be the personal property of the individual?"

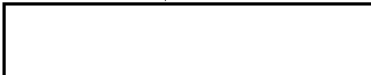
2. As you know, reimbursement of civilian officers and employees of the Federal Government is limited by statute (See 5 USC 837) to an amount not to exceed 7 cents per mile for use of privately owned automobiles on official business. The Standardized Government Travel Regulations interpret this statute to mean that the reimbursement figure includes payment for all incidental speculative expenses such as depreciation, insurance, repairs, and the like. This interpretation has never been questioned by this office and has been followed consistently in our several past opinions on this subject. Our answer to your specific questions on the first point would be, therefore, that normally an individual of this Agency who becomes involved in an accident with a third person may not legally be reimbursed by the Agency to a greater extent than the amount provided for by the statute cited above, either by way of indemnification against liability claims of others or for damage to the individual's vehicle. The individual has the right, of course, in case of bodily injury while acting within the scope of his employment to seek compensation therefor through the procedures outlined in the Federal Employees' Compensation Act [redacted] We assume, however, that you are referring to injury to the individual's automobile rather than personal bodily injury in your present inquiry.

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3. To the best of our knowledge, the only exception to the rule outlined in the preceding paragraph would be in those cases where for reasons of security the Agency prevents an employee from enforcing his rights through court action or otherwise against a negligent third party, or, for reasons of security, prevents an employee from presenting a claim against his insurance carrier. In such cases it is our opinion that reimbursement may properly be made. May we emphasize, however, that such payments come under the heading of operational expense and are not related to the statutory reimbursement cited in previous paragraphs for use of a personal vehicle on official business.

4. With regard to your second question, we are of the opinion that questions of liability concerning quasi-personal vehicles should be handled in precisely the same manner as other cases involving official vehicles. We base this opinion upon the fact that a quasi-personal vehicle is actually an official Government-owned vehicle registered in such fashion as to disguise the true ownership and assigned to an employee for his personal as well as official use. In such cases the courts have held uniformly, so far as we are aware, that when a Government employee assumes the right to use and control an official vehicle for a private purpose, he assumes responsibility for the consequences of such use and control, including the responsibility to respond personally for an injury occurring to a third person. For the purpose of clarification we should like to state our opinion that purely personal use of a quasi-personal vehicle such as transportation between the place of residence and the place of business, recreation and the like, remains personal although in consonance with the ostensible status of the vehicle. The result would be that the Agency would indemnify the individual for losses not covered by insurance only in cases where the vehicle was being used for official business. It would also be our opinion that a pro rata share of insurance coverage placed upon the vehicle should be paid by the employee based upon the mileage or time ratio of official as against personal use. Let us add also that the same caveats applicable to the use of other official vehicles would apply to the use of quasi-personal cars including the normal Governmental rule that indemnification would not be in order in case of gross or willful negligence on the part of the employee.

5. It is our hope that your discussions with the Management Staff may be of some help in resolving this situation which, from the number of claims which have been presented to the Claims Board, still is misunderstood by many employees. We would be pleased to assist in any educational process which may appear to you to be useful.



Assistant General Counsel

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ROUTING AND RECORD SHEET

INSTRUCTIONS: Officer designations should be used in the "TO" column. Under each comment a line should be drawn across sheet and each comment numbered to correspond with the number in the "TO" column. Each officer should initial (check mark insufficient) before further routing. This Routing and Record Sheet should be returned to Registry.

FROM:

Chief of Logistics

NO.

DATE

TO	ROOM NO.	DATE		OFFICER'S INITIALS	COMMENTS
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1. General Counsel	317 South				
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Office Memorandum • UNITED STATES GOVERNMENT

TO : General Counsel

DATE:

FROM : Chief of Logistics

SUBJECT: Liability and Damage as regards Motor Vehicles

1. In a recent meeting attended by the Chief, Management Staff, and representatives of the Logistics Office, a question arose as to Agency policy on two points concerning motor vehicles. Specifically, the points in question were as follows:

a. What should Agency policy be regarding liability and damages resulting from an accident to a personally owned vehicle which had been authorized for and was being utilized on official business?

b. What should Agency policy be regarding liability and damages resulting from an accident to a quasi-personal vehicle which was being utilized for personal use when such use was for the purpose of maintaining cover by making the vehicle appear to be the personal property of the individual?

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2. Current regulatory issuances do not contain policy coverage on these points. Paragraph 7, [] 1 April 1951 (copy attached), contains limited coverage on this subject; however, it is the understanding of this Office that this series of Agency regulations has been superseded. In any event, the provision contained in the last sentence of paragraph 7.c. appears to be questionable.

3. It is requested that a legal decision be furnished this Office covering the two situations as enumerated above, specifically as regards questions of liability and damage as between an individual of this Agency and third parties, and questions of liability and damage as between the Agency and the individual.

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[]
JAMES A. GARRISON

1 Enclosure

[] par. 7

LO/TD/PSZ:le(5 November 1954)

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Administrative/Finance

Payments from Miscellaneous Receipts

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References: (A) [redacted] 7 September 1955
(B) [redacted] 6 October 1955
(C) [redacted] 5 December 1955

1. Reference (A) requested your comments on the procedure for recording payments from Miscellaneous Receipts. Reference (B) advised that this problem was being studied and pending decision no payments or adjustments of account should be made.

2. As the more than four month delay in reaching (or furnishing us) a decision becomes more embarrassing as the delay is lengthened, we are taking the liberty of again calling your attention to the problem.

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17 January 1956

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